

AMENDED IN SENATE MAY 3, 2005

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 441

Introduced by Senator Soto

February 17, 2005

An act to add Section 739.11 to the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 441, as amended, Soto. Electricity: rates: *advanced metering infrastructure*.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires electrical corporations furnishing electricity to an agricultural producer to prepare and file tariffs providing for optional off-peak demand service, including the availability of time-differentiating meters or other measurement devices.

This bill would, with certain exceptions, prohibit the commission from ~~authorizing or~~ requiring the installation of advanced metering infrastructure, *as defined*, ~~for a residential or small commercial customer of an electrical corporation~~ *any building constructed prior to January 1, 2006 and occupied by a customer with average annual electricity usage of less than 1,000 kilowatthours per month and occupying a building that was constructed prior to January 1, 2005*, unless certain findings are made by the commission *based upon evidence presented at a public hearing*. ~~The bill would authorize an electrical corporation to recover the expenses for advanced metering~~

~~infrastructure for residential and small commercial customers, only if, and to the extent that, those expenses are offset by equal or greater cost reductions that are passed through in rates to consumers as a result of the use of advanced metering infrastructure. The bill would, with certain exceptions, prohibit specified residential or small commercial customers of an electrical corporation with average monthly usage of less than 1,000 kilowatthours occupying a building constructed prior to January 1, 2006, from being placed on a default time-differentiated rate schedule or other rate schedule using advanced metering infrastructure, without the customer's affirmative written consent.~~

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Because the provisions of this bill would be a part of the act *and a violation of any of those provisions would be a crime*, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The Public Utilities Commission is currently considering
4 authorizing or requiring electrical corporations to install
5 advanced metering infrastructure (AMI) for their customers,
6 including all existing residential and small commercial
7 customers, regardless of their size or location. ~~One electrical~~
8 ~~corporation has requested authority to spend fifty million dollars~~
9 ~~(\$50,000,000) in 2005 in order to prepare to start AMI meter~~
10 ~~installations in early 2006.~~

11 ~~(b) AMI includes the installation of interval data recording~~
12 ~~meters as well as two-way communications equipment. AMI~~
13 ~~technology requires more advanced and costly equipment than~~

1 the equipment necessary to provide time of use billing, to
2 conduct automated meter reading, or to provide direct load
3 control of customer equipment.

4 (e) The replacement or retrofit of millions of small customers'
5 meters statewide with AMI will cost billions of dollars, which
6 electrical corporations will seek to recover in rates. The
7 investment in communications equipment may become stranded
8 if electrical corporations decide to deploy broadband over power
9 lines at a later date.

10 (d) The commission has not conducted any evidentiary
11 hearings to determine whether universal deployment of AMI for
12 small customers will be cost effective for ratepayers. The
13 claimed benefits of AMI include operational benefits, including
14 outage detection and reduced meter reading costs, as well as
15 reduced costs of generation due to the shifting of peak load
16 periods. The claimed operational benefits alone have not been
17 sufficient to justify the costs of AMI, and may be achievable
18 through cheaper technologies. Further, residential peak load
19 reductions may be achievable in a more cost-effective and
20 reliable manner through direct load control programs, appliance
21 efficiency standards, and conservation measures. The
22 commission has not examined these alternatives in an evidentiary
23 hearing.

24 (e) The results of the statewide pricing pilot program in 2003
25 and 2004, show that California residential customers have the
26 lowest price responsiveness of any reported in the literature, and
27 lower than existed in California 25 years ago. This result is
28 consistent with the fact that California residential customers use
29 only about 61 percent of the national average for residential
30 electricity consumption, and only residents in hot climate zones
31 with significant air conditioner use can shift substantial
32 electricity usage in response to higher prices during hot summer
33 afternoon hours of peak electricity usage.

34 (f) The commission should not authorize or require the
35 installation of AMI on existing buildings occupied by residential
36 or small commercial customers with an annual average usage of
37 less than 1,000 kilowatthours per month unless it first finds,
38 based on clear and convincing evidence, that the installation of
39 AMI will result in average electricity or generation rates for the

1 residential and small commercial classes that are lower than they
2 otherwise would have been absent the installation of AMI.

3 ~~(g) No small customer occupying a building that was~~
4 ~~constructed prior to January 1, 2005, should be placed on a~~
5 ~~default time-differentiated rate schedule without the customer's~~
6 ~~informed written consent.~~

7 SEC. 2. Section 739.11 is added to the Public Utilities Code,
8 to read:

9 739.11. (a) Except as provided in Sections 393 and 353.3, the
10 commission shall not authorize or require the installation of
11 advanced metering infrastructure for buildings constructed prior
12 to January 1, 2005, and occupied by residential or small
13 commercial customers with annual average usage of less than
14 1,000 kilowatthours per month, unless it first finds, based upon
15 clear and convincing evidence, all of the following:

16 (1) The installation of advanced metering infrastructure will,
17 over the following five-year periods, result in average electricity
18 or generation rates for residential and small commercial customer
19 classes that are lower than they would be without the installation
20 of advanced metering infrastructure.

21 (2) The deployment of advanced metering infrastructure will
22 result in more cost-effective peak load reduction than other
23 alternatives, including air conditioner cycling programs and
24 appliance efficiency standards.

25 (3) The communications technology proposed to be used in
26 providing advanced metering infrastructure is the most
27 cost-effective alternative in comparison with other technologies,
28 including broadband over power lines.

29 (4) A program of universal deployment of advanced metering
30 infrastructure throughout an entire service territory of an
31 electrical corporation is more cost effective than partial
32 deployment in selected climate zones.

33 (b) Expenses for owning, installing, or maintaining advanced
34 metering infrastructure for residential and small commercial
35 customers may only be included in the rates of an electrical
36 corporation if, and to the extent that, those expenses are offset by
37 equal or greater cost reductions that are passed through in rates to
38 consumers as a result of the use of advanced metering
39 infrastructure.

~~(e) Except for customers participating in a pilot program authorized by Section 393 and customers with distributed energy resources that participate in a real-time metering and pricing program pursuant to Section 353.3, no residential or small commercial customer of an electrical corporation with an average annual usage of less than 1,000 kilowatthours per month and occupying a building that was constructed prior to January 1, 2005, shall be placed on a default time-differentiated rate schedule without that customer's affirmative written consent~~

(b) Electrical corporations have already requested over one hundred and twenty million dollars (\$120,000,000) to spend in 2005 in order to prepare to install AMI in early 2006.

(c) The entire statewide cost of AMI installation is estimated at several billion dollars.

(d) The commission has not conducted any evidentiary hearings to determine whether universal installation of AMI for small customers will be cost-effective for those customers.

SEC. 2. Section 739.11 is added to the Public Utilities Code, to read:

739.11. (a) For purposes of this section, "advanced metering infrastructure" means interval data recording meters, along with two-way communications and any other equipment necessary for the installation and operation of the meters.

(b) Except as provided in Sections 353.3 and 393, the commission shall not require the installation of advanced metering infrastructure for any building constructed prior to January 1, 2006 and occupied by a customer with annual average usage of less than 1,000 kilowatthours per month, unless it first finds, after a public hearing, based upon the evidence presented at the public hearing, that the installation of advanced metering infrastructure will save each customer class more than it will cost.

(c) Except as provided in Sections 353.3 and 393, no customer of an electrical corporation with average annual usage of less than 1,000 kilowatthours per month and occupying a building constructed prior to January 1, 2006, shall be placed on a default time-differentiated rate schedule or other rate schedule using advanced metering infrastructure, without the customer's affirmative consent obtained in writing.

1 SEC. 3. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the
6 penalty for a crime or infraction, within the meaning of Section
7 17556 of the Government Code, or changes the definition of a
8 crime within the meaning of Section 6 of Article XIII B of the
9 California Constitution.

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